

# **Libby Community Advisory Group**

## **Meeting Summary**

### **May 8, 2008**

#### **Introductions**

The members of the Libby Community Advisory Group (CAG) and its facilitator, Gerald Mueller, introduced themselves.

#### **Agenda**

The CAG agreed to the following agenda for this meeting:

- \$ April 10, 2008 Meeting Summary
- \$ Follow-up on Joan Miles Visit
- \$ Bodine Letter
- \$ Busby Presentation
- \$ Agency Reports; and
- \$ Public Comment.

#### **April 10, 2008 CAG Meeting Summary**

Clinton Maynard pointed out that the April 10, 2008 CAG meeting summary included the following comment and response:

*Audience Member Comment - I believe that Ted Linnert stated at the March 13, 2008 meeting that the interest rate on the settlement fund account would be 15-20%. The meeting summary does not state this.*

Response by Ted Linnert - I did not specify an interest rate.

Mr. Maynard then played a portion of the audio recording of the April 10, 2008 meeting. On the recording, Mr. Linnert said that banks often bid for managing such a large amount of money, and that interest rates they offer may be in the 12 to 15 to 20% range.

Comment by Ted Linnert - I never specified what the interest rate on the \$250 million would actually be. I was trying to make the point that \$250 million was a powerful amount and that I expected banks to compete for the account and drive up the interest rate. I did not know at the time that these funds would have to be placed in a special federal account with a fixed interest rate.

*Comment by Clinton Maynard - EPA made a presentation at the April CAG meeting that misled the public about the interest rate on the settlement fund account. This was important in light of the 30 day comment period facing the community for responding to the proposed settlement.*

*Comment by DC Orr - As noted under the heading Old Business in the April 10 meeting summary, at the February 14, 2008 CAG meeting I discussed with Paul Peronard the City of Libby=s request for replacement of five buildings and a water line at the export plant site. At the February meeting, Mr. Peronard incorrectly stated that the City did not receive replacement for the five buildings demolished at the export plant site because it had not requested that they be replaced. At the April meeting, I produced a letter from Attorney Scott Spencer to EPA on behalf of the City asking that the five demolished buildings be replaced by four buildings and a water line. A copy of Mr. Spencer=s letter was included with the April 10, 2008 meeting summary.*

*Given the corrections that have been recently made to the meeting summaries, I ask that each meeting begin with a review of the summary of the previous meeting.*

Response by Gerald Mueller - The meeting summaries are not meant to be meeting transcripts. I summarize each meeting using the notes that I take. To try to ensure that the summary is accurate, I give meeting presenters the opportunity to review a draft of the summary and correct it before I send it out. From now on, I will begin each meeting with a review of the previous meeting summary.

### **Follow-up on Joan Miles Visit**

Mr. Mueller asked if the CAG wished to take any action to follow-up on the discussion with Director of the Montana Department of Public Health and Human Services Joan Miles at the April CAG meeting. No follow-up actions were proposed.

### **Bodine Letter**

DC Orr read the CAG=s letter of November 19, 2007 to EPA Administrator Johnson asking that he identify an alternative for caring for victims of the asbestos exposure in Libby if a declaration of a public health emergency is not the answer. The letter also reminded Secretary Johnson of his commitment to meet with Health and Human Services Secretary Leavitt to find an alternative to the declaration of a public health emergency. Mr. Orr also read EPA Assistant Administrator Susan Bodine=s reply to this letter on behalf of the Secretary. These letters are included below in Appendix 2.

Mr. Orr stated that Ms. Bodine=s letter does a magnificent job of answering questions that the CAG did not ask and of dancing around the questions that it did ask. Mr. Orr said that this letter is sickening and that he will draft a personal reply that he will share with the CAG. He also said that attempting to be tender and kind has not worked.

*Audience Member Comment - I think the reply is absolute garbage and typical of the gobbledygook from the Bush Administration.*

*CAG Member Comment - I agree that we need to be more assertive and aggressive with what we write.*

*Audience Member Comment - Senator Baucus was present when Secretary Johnson was here and made his commitment to us. I suggest that the CAG send copies of both letters to Senator Baucus and state that we are very dissatisfied with Ms. Bodine=s reply.*

*CAG Member Comment - I agree. The letter should also be sent to Senator Tester, Congressman Rehberg and Governor Schweitzer.*

*Audience Member Question - Shortly after the concept of the public health emergency was presented to the CAG, a news story reported on the pursuit of a medical trust fund for Libby. Does anyone know of the status of the trust fund?*

Answer by Rita Windom - Two years ago the Congress considered federal legislation that would have established this trust fund, but it did not pass.

*Audience Member Question - Would it hurt to try again?*

Answer by Bill Patten - The legislation to which Commissioner Windom referred was an attempt to address the asbestos issue nationally. It was introduced by Senator Burns. One of the reasons it failed was opposition by Senator Kennedy to the Libby provisions. Senator Kennedy argued that a bill that addressed Libby but did not address sites in his state to which Libby vermiculite was shipped would be unfair.

*Audience Member Comment - I believe that the medical trust fund that took the wind out of the sails of the effort to obtain a public health emergency declaration was separate from the national asbestos legislation.*

*CAG Member Question - What was the source of funding for the trust fund?*

Answer - I believe that Senator Baucus was seeking \$400 million for Libby. I don't know what the source of the funds would have been.

*CAG Member Comment - I think that this funding was in the federal asbestos legislation.*

Response by Rita Windom - The Montana Congressional delegation worked together to try to provide help for Libby, but the bill did not pass.

***CAG Action - Members of the CAG present agreed to send copies of both letters to Montana's Congressional delegation and Governor Schweitzer. They asked DC Orr to draft a cover letter that CAG members can sign and bring it to the June CAG meeting.***

## **Busby Presentation**

Red Busby read a letter and passed out information about how the \$11.5 million of federal funds obtained by Senator Burns and Senator in 2000 has been spent. These funds were provided to the Libby Area Development Corporation (LADC). In his letter, Mr. Busby discussed a meeting that he and Gordon Sullivan had with Bill Patten to discuss forming an advisory committee to help oversee how funds provided by W.R. Grace to the hospital might be spent to meet the needs of asbestos victims. Mr. Busby also read a reply letter from Bill Patten. He thanked Mr. Patten for his response. Copies Mr. Busby's and Mr. Patten's letters and handout are included below in Appendix 3.

*CAG Member Comment - A large committee worked on how the \$8 million would be spent. The federal appropriation provided \$3.5 million to St. John's Hospital for infrastructure and \$8 million for economic development within the greater Libby area. None of these funds could be spent on medical needs or patient care.*

*Comment by Bill Patten - The \$3.5 million that went to the Hospital was used to upgrade its computed tomography scanner (CT scanner) to a six slice, spiral model that would produce images more quickly. The hospital is planning to upgrade this machine to a sixteen slice CT scanner. One of the items funded with the \$8 million was engineering studies to bring high speed internet access to Libby which would be an important asset to Libby businesses. We are working with Health Information Exchange of Montana to do so.*

*Audience Member Comment - The Kootenai Heritage Council received a large amount of funds from the \$8 million to rebuild the Memorial Center.*

*CAG Member Comment - Mr. Busby asked why the Country Club receives funds from this source monthly. The Country Club was awarded a \$2 million loan, but the funds are provided as reimbursement rather than all at once. This is why it is listed on the handout as receiving funds monthly. The loan will be repaid when the lots are sold.*

*Audience Member Comment - If not for the asbestos problem, Libby would not have received the \$8 million. Asbestos victims are trying everything to get help. Some of the \$8 million should go to victims to pay their medical expenses.*

*CAG Member Comment - The \$8 million was appropriated to mitigate the stigma associated with Libby's designation as a Superfund site. Some wanted to spend only the interest on the \$8 million. The lawyer for the Economic Development Administration (EDA) stated that no strings were attached that would limit the economic development purposes to which the funding could be either loaned or granted. The committee decided to allocate 70% of the funding to grants and 30% to loans. Some of the funding went to EDA so that only \$3.2 million went to the hospital.*

*Audience Member Comment - No one is contesting the purpose of the funding allocations to date. This issue is how these funds are used in the future. A healthy community is necessary for economic vitality. Some asbestos victims are only one bill away from disaster.*

*Audience Member Comment - Some of the \$8 million did go to health related activities. \$393 thousand was granted to open the Community Health Center. Some money also went to the Center for Asbestos Related Disease (CARD) Clinic.*

*Response by Tanis Hernandez - CARD received funding from LADC on two occasions. First, CARD received \$26,000 to assess whether a local asbestos disease research effort would be worthwhile. CARD used this money to convene two meetings of national experts to advise us on this question. Their answer was a local effort would be valuable. Second, LADC granted CARD \$250 thousand in 2005 to begin building the infrastructure needed for research. In 2000, CARD had three employees. Today, we have 13.*

*CAG Member Question - Who oversees the \$8 million fund?*

*Answer by Rita Windom - In the beginning, a committee appointed by Senator Crismore was the overseer. The City of Libby became dissatisfied with this arrangement and took back the responsibility.*

*CAG Member Comment - Regarding the \$2.5 million allocated to the Country Club, normally when land is developed, the developer pays for the cost of the infrastructure rather than the city.*

*CAG Member Question - Why aren't the loans being repaid? What do we have to do to get the money back?*

*Answer by Rita Windom - In the case of the Country Club, the loan will be repaid as lots are purchased.*

*CAG Member Question - Why don't we invite a representative of the City to the next CAG meeting to find out how the \$8 million fund is being handled now and plans for future expenditures from it?*

*CAG Member Comment - Thank you to Red Busby for his work in bringing this topic and information to us.*

***CAG Action - Members of the CAG present agreed to invite a City representative to the next CAG meeting to report on the \$8 million economic development fund. Jerry Hersman agreed to speak with the mayor about this.***

## **EPA Report**

Paul Peronard and Ted Linnert reported on behalf of EPA on the following topics.

Cleanup Work - Cleanup work resumed in April. Contracts were awarded to three firms, one that has done previous cleanup work in Libby, ER, and two firms new to Libby, Air, Soil and Water (ASW) from Omaha, Nebraska and Hudspeth from Englewood, Colorado. Cleanup is underway of the Evergreen Motel and the Sandman Down Under Motel. The ASW contract includes a task order for cleanup of 25 properties. The next task order to be awarded in two weeks will provide for cleanup of another 20-25 properties.

TAG Questions - At the last meeting of the Technical Advisory Group (TAG), questions were asked about the cleanups at two locations, the Evergreen Motel and the Eagles Building. Regarding the former, EPA was asked about the contractor washing off steel plates into the gutter. The plates had been placed on clean ground so that the trucks driving onto and off of the site would not tear up the grass. When plates are placed on ground contaminated with vermiculite, they are wrapped with poly so that contamination can be collected and disposed of properly.

*CAG Member Comment - The contractor worker washing the plates was dressed in a Haz-Mat suit. The trucks driving over the plates had been filled with dirt from planters containing vermiculite.*  
Response - Contractors tend to wear the Tyvek Haz-Mat suits like coveralls. The planters did contain contamination. Mike Cirian or Courtney Zamora of Volpe are keeping a close eye on these operations, so that if you have questions or concerns, please call one of them. Mike can be reached at the EPA Information Center.

The other cleanup location is the Eagles Building at 119 Mineral Avenue, two blocks from the EPA Information Center. This location has been on the cleanup list since 2002. It consists of two buildings, one constructed about 1910 and the other in the 1950s. The 1950s era building includes cinder blocks filled with vermiculite insulation. The older portion of the building which contains no vermiculite or asbestos bearing materials has started to collapse, and the owner hired a contractor to demolish it. The state approved the demolition. In issuing demolition permits, the state does not automatically consult with EPA. This is a loophole that needs to be closed. We checked on the demolition of the old building to see if it affected the newer building with the vermiculite insulation. It will not.

Activity Based Sampling - I recently made presentations about the sampling results to the TAG and the Lincoln County Commission. We are about three-quarters of the way through the sampling and about one-half of the data collected has been analyzed. We will finish all of the sampling before issuing a final report. I can, however, report on some of the preliminary trends. First, ambient air contains the least amount of asbestos, and we are not concerned with ambient levels. The next highest levels were found inside homes. We have sampled four groups of

houses: those that have had cleanups, those that were screened and determined not to need cleanups, and two other groups. The inside exposure to asbestos fibers was found to be small compared to outside exposure from contaminated soils stirred by activities such as lawn mowing and garden roto-tilling. The indoor contamination is controlled by the outdoor contamination status. The TAG has expressed concern in the past about leaving carpets and vermiculite in walls. Data collected to date do not indicate that the carpets or wall insulation are a concern, as long as the walls remain sealed.

*Audience Member Question - So you are saying if asbestos concentrations are high outside, they are likely to be high inside?*

Answer - There is some indication that higher outside concentrations result in higher inside ones, but inside concentrations are less than exposure from outside vermiculite that has been stirred up.

*Audience Member Question - How many property cleanups are still pending?*

Answer - About 840.

We are seeing seasonal differences in the results for both indoor and outdoor sampling. Ambient levels are higher during the summer. When sampling outdoor activities, we are seeing asbestos fibers even at properties that have been cleaned. We need to assess promptly the background levels of asbestos fibers. USGS will be evaluating background levels due to geology. Another phenomenon of concern is the variability of the sampling results as a function of environmental conditions such as wind and humidity. The background and variability due to environmental conditions may affect the risk assessment conclusions.

*Audience Member Question - Is the risk assessment time line unchanged?*

Answer - Probably. We need to gauge the non-cancer asbestos disease risk, but we do not yet have a model for doing so. We are on track to finish the non-cancer risk in a year. The last part of the assessment will be updating the cancer models. We are proposing that the risk assessment be released before the cancer work is finished and that the cancer information be incorporated later. We understand that we need to get the risk assessment done.

*Audience Member Question - We would expect to see higher level of particulate in the air during August and September which are Libby=s driest months?*

Answer - Yes. We do see higher asbestos concentrations in the ambient air during these months. However, the levels are infinitesimal compared to levels resulting from stirring up vermiculite by mowing, etc. The soil needs to be kept moist to reduce exposure levels.

*Audience Member Comment - I have suspected that lawn mowing is a problem, and we finally have the answer tonight. The answer has been slow in coming. The City requires that lawns be mowed. Water should be applied prior to mowing and the grass should be allowed to grow longer to reduce mowing frequency. We need to green up Libby; we can=t ration water.*

*Audience Member Question - You said that in dry times of the year, asbestos exposure increases. I am concerned about drought. If global warming is real, won=t we have more droughts in the future? Will the risk assessment address this?*

Answer - The dryer the soils and air, the more exposure. Last year was the driest on record. The sampling is capturing the worst case dryness conditions. The risk assessment will balance dry and wet years and bracket exposure conditions.

*Audience Member Question - Is EPA continuing to distribute HEPA vacuum cleaners?*

Answer - There is money in next year=s budget to pay for them.

*Audience Member Question - How do you build into your analyses change in conditions with time?*

Answer - We have done so by picking a range of ages in the houses sampled. We will have to address this in the post-remediation monitoring. For example, we will have to provide for protecting fire fighters and contractors.

*Audience Member Question - What is the next phase of the activity sampling?*

Answer - The second phase of outdoor sampling will be conducted from April through September. We have completed three of the four phases of indoor sampling.

*Audience Member Question - What about construction that requires digging below the surface at properties that have been cleaned such as digging new foundations and septic systems?*

Answer - EPA has records of all properties that have been cleaned. If you are unsure about subsurface contamination, we will screen it before you dig. This is an issue for the operation and maintenance working group.

*Audience Member Question - What if your property has been cleaned, but a contractor digs?*

Answer - There will be a gap until the operation and maintenance plan with information monitoring is completed.

Creek Cleanups - Cleanup of Flower, Callahan, and Granite Creeks will begin at the end of the construction season as flows drop. Cleanups will involve removal and jet grouting. Cleanup of two residences along the creeks will be included. The US Army Corp of Engineers will be doing remediation work on Callahan Creek in Troy, but its work will not impact areas with asbestos contamination.

*Audience Member Question - What plans do you have for communicating with property owners along the creeks?*

Answer - We will go door to door.

Public Meeting - EPA will convene a public meeting on May 22, 2008 at 7:00 p.m. in the Little Theater. The purpose of the meeting is to hear summaries of the activities for all of the Libby operable units.

## **State Report**

Catherine LeCours reported on behalf of DEQ on the following topics.

Troy Cleanups - We had a successful public meeting in Troy last week about the sampling and investigation for the Troy operable unit. Field work will begin June 2. Because of contamination levels, seven Troy properties will be cleaned this summer.

Governors Settlement Response - When the state last checked on the settlement comments, only one letter, the one with the 701 Libby signatures, had been filed. We expected that the CAG, Lincoln County Commissioners and City of Libby would have submitted comments. Governor Schweitzer will be responding and a copy of his letter will be sent to the CAG in care of its facilitator, Gerald Mueller.

### **Operation and Maintenance Working Group Report**

Catherine LeCours reported on behalf of the Working Group. The group is considering draft best management practices for Operable Unit 1, also known as the Export Plant Site, including permit controls for subsurface digging to avoid spreading contamination on the surface.

*CAG Member Question - Has EPA released the export plant site to the City so that it can do what it wants there?*

Answer by Paul Peronard - The City could always do what it wanted on its property. The City wants to start construction of a new pavilion at this site. EPA has agreed to excavate and remove the contaminated soils for this project. We will issue a contract related to this construction in June.

*CAG Member Question - Can you expedite the contract for the excavation at the export plant site?*

Answer by Paul Peronard - The City only gave us the plans for the pavilion last week. I cannot treat this as an emergency. We will issue a contract in June so that we can get the best price. The City could conduct and pay for this work and properly dispose of the contaminated material.

### **CARD Report**

Tanis Hernandez reported that the latest issue of the CARD newsletter is out.

### **TAG Report**

Philip Erquiaga reported on behalf of the TAG. The bulk of our most recent meeting discusses have already been covered. We did get 701 signatures on the community letter regarding the settlement. Thank you to Red Busby for his signature gathering work.

### **Public Comment**

There was no additional public comment.

### **Next Meeting**

The next regular CAG meeting is scheduled for 7:00 to 9:00 p.m. on June 12, 2008 in the Ponderosa Room of Libby City Hall. The agenda will include the report on the economic development fund expenditures from a City representative and reports on the golf course and ASA Wood school cleanups.



**Appendix 1**  
**CAG Member & Guest Attendance List**  
**May 8, 2008**

| <b>Members</b>    | <b>Group/Organization Represented</b>       |
|-------------------|---|
| Bill Patten       | St. John=s Lutheran Hospital                |
| DC Orr            | Libby Community                             |
| Philip Erquiaga   | EaglesVoice.com                             |
| Rita Windom       | Lincoln County Commission                   |
| Ken Hays          | Senior Citizens                             |
| Ted Linnert       | Environmental Protection Agency (EPA)       |
| Paul Peronard     | EPA   |
| Catherine LeCours | Montana Department of Environmental Quality |
| Gary D. Swenson   | Libby Volunteer Fire Department             |

## Appendix 2

November 19, 2007

Stephen Johnson  
Administrator, U.S. Environmental Protection Agency  
USEPA Headquarters  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
**Mail Code:** 1101A  
Washington, DC 20460

Honorable Administrator Johnson;

Thank you for your August 6, 2007 visit to Libby, Montana. The Libby Community Advisory Group (CAG) is appreciative of your efforts to hear the concerns of our community. Much of the discussion during the town meeting hosted by Senator Baucus centered on the topic of the declaration of a Public Health Emergency. As you could tell from the comments you received, the issue is of paramount importance to the citizens of Libby. It has risen to such a place of importance in our minds, not because of any potential constraints on EPA's authority to respond to our situation, but because we have come to believe Section 104(i)(1)(D) of CERCLA obligates ATSDR to:

“In cases of public health emergencies, caused or believed to be caused by exposure to toxic substances, provide medical care and testing to exposed individuals...”

As you heard on August 6<sup>th</sup>, our medical situation has steadily worsened since the issue of a public health emergency first arose in 2002. This situation has been made worse since the incomes to pay for this care have, most unfortunately, steadily declined. There are currently over 1,700 patients seeking medical care and screening at the Center for Asbestos Related Disease (CARD) alone. W.R. Grace now routinely denies 50% of the claims filed for asbestos related medical services. The CARD clinic and St. John's Lutheran Hospital have borne the brunt of this impact financially and cannot afford to continue shouldering this burden.

The members of the CAG who attended the town meeting heard your message, to paraphrase, that a public health emergency will not likely solve our problem. Accepting this for the sake of argument, if not a public health emergency, then what? If this is not the tool for caring for the victims of asbestos exposure in Libby, please help us find an alternative.

During the August 6<sup>th</sup> meeting you committed to meet with Secretary Leavitt of the Department of Health and Human Services to seek such an answer. The undersigned members of the CAG implore you to fulfill this commitment. It is vital to the health of our community.

Thank you again for your concern. We look forward to your timely reply as this will be a primary topic at our meetings in the next few months.

Sincerely,  
CAG members representing the Libby Area,

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Dr. Brad Black  
Lincoln County Health Officer

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Eileen Carney  
Montana State Board of Respiratory Care

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Mike Gieseey  
Center for Asbestos Related Disease

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Kenny Hays  
Libby Senior Citizens

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David Latham, Editor  
The Montanian

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K.W. Maki  
Libby Public Schools

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Bill Patten  
St. Johns Lutheran Hospital

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DC Orr  
City of Libby resident

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Gary D. Swenson  
Libby Volunteer Fire Department

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Leroy Thom  
Former Grace Employee

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Rita Windom  
Lincoln County Commissioner

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Phillip Erquiaga  
FineArt-World, Co-Owner  
eGlobal Multiple Listing Service, Owner